

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

OCT 27 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Federal-State Joint Board on Universal)
Service: Promoting Deployment and)
Subscribership in Unserved and Underserved)
Areas, Including Tribal and Insular Areas)

CC Docket No. 96-45

AT&T REPLY COMMENTS ON NEAR RESERVATION FNPRM

Pursuant to the Commission's Order and Further Notice of Proposed Rulemaking ("*Stay Order*" and "*FNPRM*"), FCC 00-332, released August 31, 2000, AT&T Corp. ("AT&T") submits these reply comments on whether the Commission's enhanced Lifeline and Link Up programs should extend to individuals living *near* Indian reservations. The Commission should *not* extend enhanced support to near reservation areas.

In its *Twelfth Report and Order*,¹ the Commission adopted a comprehensive plan to address deployment of facilities and subscribership in unserved and underserved areas, including tribal and insular areas. Among other features, it adopted enhanced Lifeline and Link Up support programs for qualifying low-income

¹ See *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, FCC, 00-208, released June 30, 2000 ("*Twelfth Report and Order*").

No. of Copies rec'd
List A B C D E

0 + 4

consumers living on or near reservations, as defined in 25 C.F.R. §§ 20.1(r) and 20.1(v). Subsequently, in its August 31, 2000 *Stay Order*, on its own motion, the Commission stayed the implementation of its recently amended federal Lifeline and Link Up rules to the extent that they apply to individuals living *near* reservations. Simultaneously, in the companion *FNPRM*, the Commission requested additional comment on "how to define geographic areas that are adjacent to the reservations or are otherwise a part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link Up support to the most underserved segments of the Nation." *FNPRM* ¶ 5.

In its comments, AT&T (at 1-4) urged the Commission to confine its enhanced Lifeline and Link Up programs to qualified individuals living *on* reservations and to exclude from these programs individuals living *near* reservations,. AT&T confirmed that, as the Commission itself recognized, the "near reservation" designation is far too broad in scope and may encompass "wide geographic areas that do not possess the characteristics that warranted the targeting of enhanced Lifeline and Link Up support to reservations, such as *geographic isolation, high rates of poverty, and low telephone subscribership*." *Stay Order* ¶ 3 (emphasis added). As the Commission explained, "[s]uch an outcome may not further our goal, as described in the *Twelfth Report and Order*, of increasing telecommunications deployment and subscribership in the *most historically isolated and underserved regions of our Nation*." *Id.* (emphasis added).

Nonetheless, the United States Cellular Corporation ("USCC") and the Washington Utilities and Transportation Commission ("WUTC") argue for retention and implementation of the "near reservation" criteria. USCC (at 3-7) contends Washington

State has many near reservation areas that are isolated, impoverished and underserved, and that the Commission should "narrowly carve out those counties with high subscribership levels" by identifying Primary Metropolitan Statistical Areas - a large urbanized county or cluster of counties that demonstrate very strong internal economic and social links - and excluding them from enhanced Lifeline and Link Up eligibility. WUTC (at 1) also supports retention of the near reservation criteria because "Washington State has 28 federally recognized tribes and the enhanced Lifeline and Link Up support will be beneficial to the low-income members of those tribes." Moreover, WUTC (at 2) asserts that it would be difficult to segment out tribal populations because "ETCs [eligible telecommunications carriers] do not generally keep records of who resides on a reservation and who does not."

Contrary to these commenters' positions, the Commission should confine the enhanced Lifeline and Link Up programs to qualifying low-income individuals living on tribal lands, for several reasons. First, as AT&T showed in its comments (at 2-3), expansion of these programs to "near reservation" areas would potentially dramatically expand the enhanced programs for low-income individuals that happen to live in the "near reservation" area designated by the BIA while relegating other low-income individuals (who may also live in areas of geographic isolation) to the more limited Lifeline and Link Up support programs. Because there does not appear to be any rational basis for this disparate treatment, the result appears to be unreasonably discriminatory. Indeed, enhanced support for reservations can be justified not only because reservations have certain attributes (such as geographic isolation, high rates of poverty, and low telephone subscribership), but because they are outside of the regulatory jurisdiction of

the state and its franchising and support mechanisms. Second, if the "near reservation designation" were retained, the Commission's enhanced Lifeline and Link Up support program would apparently be subject to "automatic expansion" whenever the BIA added geographic areas to the "near reservation" category. Third, expansion of the enhanced Lifeline and Link Up programs would cause the USF support requirements to burgeon. Consumers would ultimately have to bear this increased USF burden. As the Florida PSC pointed out in its pending petition for reconsideration of the *Twelfth Report and Order*, as a net contributor state to the federal USF, "we are concerned about the ever-increasing size of the programs."² The Commission should similarly be concerned that a broad expansion of the program would erode public support. Thus, "near reservation" areas should *not* be entitled to the enhanced support programs.

AT&T agrees with Verizon (at 1) that the "Commission's enhancements to its support program for 'on the reservation' areas are a targeted program with a specific and defined geographic scope. In contrast, broadening the additional support to 'near the reservation' areas makes the scope uncertain and broadens the program beyond what is justified" Even if the Commission were inclined to retain the "near reservation" criteria (which it should *not*), at a minimum, as Verizon (at 1, 3) urges, the Commission should extend its stay of enhanced support indefinitely pending further study and evaluation of whether "near reservation" areas need additional support, while assessing the "effectiveness and administrative burdens on the targeted geographic areas of existing reservations."

² Florida PSC Petition for Reconsideration, filed August 15, 2000, of the *Twelfth Report and Order*, at 3.

In all events, WUTC's assertion (at 2) that ETCs would not be able to distinguish customers living on a reservation from those living near a reservation cannot be a basis for extension of the enhanced program to near reservation areas. Vastly expanded Lifeline and Link Up programs cannot be justified by a current inability to determine a relatively simple fact, namely, whether a customer location is within the geographic boundaries of a reservation. A geographic overlay of Indian reservations and LEC serving areas should be made available, as SBC (at 1) suggests, so that this problem may be rectified.

WUTC (at 4) also suggests that the Commission eliminate the linkage between ETC status and the Lifeline and Link Up programs. AT&T supports this result to ensure that competitive local exchange carriers, who serve predominantly urban areas, and therefore do not seek ETC status to obtain high-cost support, would nevertheless be able to provide service to low-income customers eligible for the Lifeline and Link Up programs.

CONCLUSION

For the foregoing reasons and those in AT&T's Comments, the Commission should *not* extend the enhanced Lifeline and Link Up programs to individuals living *near* reservations. It should eliminate the linkage between ETC status and low-income support.

Respectfully submitted,

AT&T CORP.

By /s/



Mark C. Rosenblum

Judy Sello

Room 1135L2
295 North Maple Avenue
Basking Ridge, New Jersey 07920
(908) 221-8984

Its Attorneys

October 27, 2000

CERTIFICATE OF SERVICE

I, Tracy L. Rudnicki, do hereby certify that on this 27th day of October, 2000, a copy of the foregoing "AT&T Reply Comments on Near Reservation FNPRM" was served by U.S. first class mail, postage prepaid, on the parties named on the attached Service List.

/s/ 
Tracy L. Rudnicki

**SERVICE LIST
UNIVERSAL SERVICE
FEDERAL-STATE JOINT BOARD
CC DOCKET NO. 96-45**

The Honorable Susan Ness, Chair
Commissioner
Federal Communications Commission
445 Twelfth Street, SW, Room 8-B115
Washington, DC 20554

Irene Flannery
Acting Ass't. Division Chief
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A426
Washington, DC 20554

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 Twelfth Street, SW, Room 8-A302
Washington, DC 20554

Paul Gallant
Federal Communications Commission
Legal Advisor to Commissioner Tristani
445 Twelfth Street, SW, Room 8-C302B
Washington, DC 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 Twelfth Street, SW, Room A-C302
Washington, DC 20554

The Honorable Nanette G. Thompson
Regulatory Commission of Alaska
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501-1693

Lori Kenyon
Common Carrier Specialist
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501

Mark Long
Economic Analyst
Florida Public Service Commission
Gerald Gunter Bldg.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0866

The Honorable Bob Rowe
Montana Public Service Commission
1701 Prospect Avenue
PO Box 20261
Helena, MT 59620-2601

Sandra Makeeff Adams
Accountant
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319

The Honorable Laska Schoenfelder
Commissioner
South Dakota Public Utilities Commission
State Capitol, 500 East Capitol Street
Pierre, SD 57501-5070

Kevin Martin
Federal Communications Commission
Legal Advisor to Commissioner Furchtgott-
Roth
445 Twelfth Street, SW, Room 8-A302E
Washington, DC 20554

The Honorable Martha S. Hogerty
Public Counsel
Secretary of NASUCA
Truman Building
301 West High Street, Suite 250
P.O. Box 7800
Jefferson City, MO 65102

Philip F. McClelland
Assistant Consumer Advocate
Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Charles Bolle
Public Utilities Commission of Nevada
1150 East William Street
Carson City, NV 89701

Thor Nelson
Rate Analyst/Economist
Colorado Office of Consumer Counsel
1580 Logan Street, Suite 610
Denver, CO 80203

Jordan Goldstein
Federal Communications Commission
Legal Advisor to Commissioner Ness
445 Twelfth Street, SW, Room 5-C441
Washington, DC 20554

Barry Payne
Economist
Indiana Office of the Consumer Counsel
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2208

Rowland Curry
Policy Consultant
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78701

Brad Ramsay
Deputy Assistant
General Counsel
National Assoc. of Regulatory Utility
Commissioners
1100 Pennsylvania Avenue, N.W.
P.O. Box 684
Washington, DC 20044-0684

Brian Roberts
Regulatory Analyst
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Tiane Sommer
Special Assistant
Attorney General
Georgia Public Service Commission
47 Trinity Avenue
Atlanta, GA 30334

Patrick H. Wood, III
Chairman
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

Peter Bluhm
Director of Policy
Vermont Public Service Board
Research Drawer 20
112 State St., 4th Floor
Montpelier, VT 05620-2701

Walter Bolter
Intergovernmental Liaison
Florida Public Service Commission
Gerald Gunter Building, Suite 270
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Carl Johnson
Telecom Policy Analyst
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Doris McCarter
Ohio Public Utilities Commission
180 E. Broad Street
Columbus, OH 43215-3793

Susan Stevens Miller
Assistant General Counsel
Maryland Public Service Commission
6 Paul Street, 16th Floor
Baltimore, MD 21202-6806

Mary E. Newmeyer
Federal Affairs Advisor
Alabama Public Service Commission
100 N. Union Street, Suite 800
Montgomery, AL 36104

Tom Wilson
Economist
Washington Utilities & Transportation
Commission
1300 Evergreen Park Drive, S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Linda Armstrong
Attorney
Federal Communications Commission
CCB, Accounting and Audits Division
Universal Service Branch
445 Twelfth Street, SW, Room 5A-663
Washington, DC 20554

Lisa Boehley
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B544
Washington, DC 20554

Katherine Schroder
Deputy Division Chief
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A423
Washington, DC 20554

Steve Burnett
Public Utilities Specialist
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B418
Washington, DC 20554

Bryan Clopton
Public Utilities Specialist
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A465
Washington, DC 20554

Andrew Firth
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A505
Washington, DC 20554

Lisa Gelb
Division Chief
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A520
Washington, DC 20554

Emily Hoffnar
Federal Staff Chair
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A660
Washington, DC 20554

Charles L. Keller
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A664
Washington, DC 20554

Katie King
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B550
Washington, DC 20554

Robert Loube
Telecom. Policy Analyst
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B524
Washington, DC 20554

Brian Millin
Interpreter
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-a525
Washington, DC 20552

Sumita Mukhoty
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A633
Washington, DC 20554

Mark Nadel
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B551
Washington, DC 20554

Gene Fullano
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-A623
Washington, DC 20554

Richard D. Smith
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5B-448
Washington, DC 20554

Matthew Vitale
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B530
Washington, DC 20554

Sharon Webber
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B552
Washington, DC 20554

Jane Whang
Attorney
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B540
Washington, DC 20554

Adrian Wright
Accountant
Federal Communications Commission
CCB, Accounting Policy Division
445 Twelfth Street, SW, Room 5-B510
Washington, DC 20554

Ann Dean
Assistant Director
Maryland Public Service Commission
6 Paul Street, 16th Floor
Baltimore, MD 21202-6806

David Dowds
Public Utilities Supervisor
High Cost Model
Florida Public Service Commission
Gerald Gunter Bldg.
2540 Shumard Oaks Blvd.
Tallahassee, FL 32399-0866

Don Durack
High Cost Model
Staffer for Barry Payne
Indiana Office of Consumer Counsel
100 North Senate Avenue
Indianapolis, IN 46204-2208

Greg Fogleman
Regulatory Analyst
High Cost Model
Florida Public Service Commission
Gerald Gunter Bldg.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0866

Anthony Myers
Technical Advisor
High Cost Model
Maryland Public Service Commission
6 St. Paul Street, 19th Floor
Baltimore, MD 21202-6806

Diana Zake
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

Tim Zakriski
NYS Department of Public Service
3 Empire State Plaza
Albany, NY 12223

Charles J. Scharnberg
Roger K. Toppins
Paul Mancini
SBC Communications Inc.
1401 I Street, N.W., 11th Floor
Washington, DC 20005

Judith A. Endejan
Williams, Kastner & Gibbs PLLC
Attorneys for United States Cellular
Corporation
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101-2380

Edward Shakin
Verizon Telephone Companies
1320 North Court House Road, Eighth Floor
Arlington, VA 22201

Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
William R. Gillis, Commissioner
Washington Utilities and Transportation
Commission
1300 Evergreen Park Drive, S.W.
P.O. Box 47250
Olympia, WA 98504-7250